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FISCAL IMPACT STATEMENT

LS 7106

BILL NUMBER: SB 496

NOTE PREPARED: Mar 21, 2013

BILL AMENDED: Mar 21, 2013

SUBJECT: Control of Ephedrine and Pseudoephedrine.

FIRST AUTHOR: Sen. Yoder

FIRST SPONSOR: Rep. McMillin

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) *Selling of Ephedrine*- The bill specifies that ephedrine or pseudoephedrine may be sold only by a pharmacy or a retailer that uses the NPLeX tracking system. The bill allows a retailer who: (1) does not use the NPLeX tracking system; and (2) meets certain other requirements; to sell ephedrine or pseudoephedrine in convenience packages until January 1, 2014. The bill provides that: (1) a pharmacy may not sell more than 61.2 grams of ephedrine or pseudoephedrine to an individual in a 365-day period; and (2) an individual may not purchase more than 61.2 grams of ephedrine or pseudoephedrine in a 365-day period.

Penalty Provision- The bill prohibits a person convicted of certain offenses involving methamphetamine from possessing ephedrine, pseudoephedrine, or phenylpropanolamine within seven years of the person's conviction, unless dispensed under a prescription. The bill increases the penalty for furnishing methamphetamine precursors to another person with knowledge that the recipient will use the precursors to manufacture controlled substance if the person furnishes more than 10 grams of certain precursors.

Signage Provision- The bill removes a provision requiring certain signage where ephedrine or pseudoephedrine is sold.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Penalty Provision*- Under current law, a person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or intent that the recipient will use the reagent or precursor to manufacture a controlled substance commits a Class D felony.

This provision would increase the D felony to a C felony if the person sells, transfers, distributes, or furnishes more than 10 grams of ephedrine, pseudoephedrine, or phenylpropanolamine. Additionally, the bill would establish a new D felony for having possession of methamphetamine within seven years of a prior conviction for a methamphetamine offense. State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. More offenders could mean increased costs to the Department of Correction (DOC).

(Revised) *Selling of Ephedrine*- After December 31, 2013, the bill would only allow pharmacies and NPLeX retailers to sell over-the-counter products containing ephedrine or pseudoephedrine. (Current law allows all retailers to do so, including groceries, merchandise stores, drug stores, and other similar establishments.) Additional violations of this provision constitute a Class C misdemeanor (Class A misdemeanor with a prior conviction). However, it is likely the number of offenders would be low.

Additional Information- Offender Housing Costs: The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the incremental cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012.

Felony Sentences: A Class A felony is punishable by a prison term ranging from 20 to 50 years, depending upon mitigating and aggravating circumstances. A Class B felony is punishable by a prison term ranging from 6 to 20 years, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from 2 to 8 years. A Class D felony is punishable by a prison term ranging between 6 months and 3 years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances.

Average Length of Incarceration: The average length of stay in DOC facilities for all Class A felony offenders is approximately 9.1 years; for Class B felony offenders, approximately 3.7 years; for Class C felony offenders, approximately 2 years; and for Class D felony offenders, approximately 10 months.

Explanation of State Revenues: *Criminal Fines*- Criminal fines and court fees are the same for Class A, B, C, or D felonies. The maximum fine all four felony classifications is \$10,000. Criminal fines are deposited into the Common School Fund. The bill also increases D felony “neglect of a dependent” to a C felony, if the neglect is committed in a location where there is the delivery, financing, or manufacture of methamphetamine. The bill also adds a new D felony. Therefore, aggregate court fees and fines would likely increase. Court fees are placed in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. The bill also increases D felony “neglect of a dependent” to a C felony, if the neglect is committed in a location where there is the delivery, financing, or manufacture of methamphetamine. Therefore, aggregate court fees and fines that apply to local revenues may increase.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; Department of Correction.

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